



# National Asbestos Forum 2021

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Hosted by **GREENCAP**

*Q&A Booklet*

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*Questions from the Audience*

Question	Answer
<p>What is the <i>most unusual item</i> that Australian Border Force has found containing asbestos?</p>	<p>A WWI respirator gas canister filled with asbestos. See some interesting images of border detections at the ABF website <a href="#">asbestos information page</a>.</p>
<p>Does Australia <i>share discoveries of imported asbestos</i> with New Zealand?</p>	<p>Yes. The Heads Of Workplace Safety Authorities Imported Materials with Asbestos Working Group comprises Australian and New Zealand regulatory authorities with responsibility for asbestos. More information available at the <a href="#">Asbestos Safety and Eradication Agency (Cth) website</a>.</p>
<p>What is the <i>most common asbestos item</i> detected in Australia?</p>	<p><i>Common</i> can mean a few things. The most numerous commodity with asbestos in border detections is currently the parts/components of older vehicles (classic cars). This is a continuing risk so must be addressed at the border.</p> <p>It is also reflective of the amount being imported. Building products manufactured with a mineral fibre content are a risk and we have seen a number of detections within cement fibre boards. Any material designed to resist heat and friction, or promoted as fire-retardant, that is not constructed with asbestos substitute materials should also be regarded as a risk, if manufactured in a country that allows asbestos use.</p>
<p>What is <i>the process</i> if asbestos has been identified in plant, building or structure after it has been banned?</p>	<p><b>VIC Dangerous Goods Act part VIA – Section 39 Asbestos Removal and Control</b> requires the regulator to be a person who has management or control of the property must notify the Authority as soon as is practicable after becoming aware</p> <ul style="list-style-type: none"> <li>a) that the property contains asbestos; and</li> <li>b) that the asbestos was installed on the property on or after 1 January 2004</li> </ul> <p>And then within 60 days the person with management or control over the asbestos must enter into an agreement with the authority to remove the asbestos or manage the risk of the asbestos approved by the authority. With the emphasis on removing the asbestos.</p> <p>More detailed information can be found in the <a href="#">Dangerous Goods Act 1985 (legislation.vic.gov.au)</a></p> <p><b>WHS example</b></p> <p>Clause 419 WHS REG 2017 prohibits a PCBU of manufacturing, supplying, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or ACM that has been imported after 31 December 2003.</p> <p>Once aware, NSW investigates the import and directs ACM to be removed, through either issue of a notice under Clause 419 or agreement with the controller.</p> <p>SafeWork NSW is expected to adopt the amendment of the model WHS legislation where an asbestos prohibition notice can be issued by the regulator,</p>



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to have the asbestos either removed or managed. This new clause takes away any ambiguity in relation to whether Clause 419 is appropriate.

**ABF:** The import prohibition for asbestos, and goods containing asbestos, applies regardless of the age of the goods.

*How does an importer know that the **documentary evidence** they have from their supplier will be acceptable to the ABF?*

Importers must not expect the ABF will accept a declaration or letter from the supplier simply stating the goods don't contain asbestos, with accompanying documentary evidence. A declaration on its own is not documentary evidence. For new goods, seek technical information from the point of manufacture that addresses risk management for asbestos (through the use of asbestos substitute materials), and/or a sampling and accredited testing regime.

There are numerous goods that are of a risk type for asbestos content, that are marketed as 'non-asbestos' without accompanying information to show the buyer what raw materials are used in their manufacture.

Be aware of marketing websites that include spec descriptions such as *other mineral fibres* with no further information. If the supplier is the manufacturer, they should be capable of providing adequate documentary evidence. If the documentary evidence an importer collates does not genuinely convince the importer, it's not going to convince the ABF.

More information is available at the ABF website [asbestos information page](#).

*Is there a **cut-off date** when an asbestos register is not required?*

WHS/HSWAR Regulations do not apply to a workplace if:

- WHS Reg (QLD) - constructed after 31 December 1989
- WHS, Reg ACT, NSW, NT, SA, Tas, Cmwth - constructed after 31 December 2003
- HSW (Asbestos) Regulations (NZ). Demolition and refurbishment of structures and plant - constructed after 31 December 1999; and
  - a. no asbestos has been identified at the workplace; and
  - b. no asbestos is likely to be present at the workplace from time to time
- WA & Vic No specific cut-off date

Note: Consider the possibility of asbestos in imported building materials after the cut off dates.

*What about **old cars** purchased overseas that may have old original brakes/gaskets/seals already installed?*

Should be inspected before it is shipped, parts removed, photographic evidence provided.

*How are they dealt with? Does the owner need the car dismantled beforehand?*

Vehicle to be inspected by an accredited professional before shipment to identify risk parts/components. For the sake of the cost and effort it may prove more cost effective.

It is safer to remove parts/components identified as a risk and replace later in Australia. Often sampling and testing in the country of origin will not prove cost-effective or efficient, unless the structure is difficult to remove, such as a mastic coating/sound deadening material sprayed or painted on.

Please refer to the ABF fact sheet: *Managing the risk of asbestos when importing a motor vehicle* at the ABF website [asbestos information page](#).



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*Is the **risk of asbestos exposure** greater in the workplace, or in the home environment?*

Asbestos containing materials (ACM) in good condition and left undisturbed present a low risk of exposure to elevated levels of airborne asbestos fibres.

In a domestic home the responsibility falls on the trades that have been engaged to undertake the work. This is when a residential property becomes a workplace. The tradespeople should have received asbestos awareness training to be able to identify asbestos in the workplace.

The identification of asbestos in the area of works should be conducted by a competent person prior to the works commencing, and the information should be shared with each trade.

Generally, the homeowners often do not have the same level of awareness and the risk of exposure to asbestos is much greater (the third wave) during DIY renovations.

Increasing asbestos awareness through education, campaigns and social media plays a crucial role in reducing the risks associated with asbestos in the home.

*Examining and attempting to regulate Non-Destructive Digging is a fantastic idea. However, the mention of **exposure monitoring** will be challenging in an environment where water jets are used and moisture will be floating around in the atmosphere, which will affect the filter membrane of the air monitor.*

This will be for the hygienists to discover. SafeWork NSW has a hands-off approach in the research and outcomes. In the initial trials this was also something that was thought about, but the filters were not affected by moisture at that time.

*How do you propose to overcome this?*

*Can you please clarify **responsibilities** where a building (or a space within a building) is being leased?*

It all comes back to who has “management or control” of the item/space we are referring to.

For example, a building owned by Duty Holder (DH) A is leased to (DH) B as a workplace.

*Is it the building owner or the tenant’s **responsibility** to remediate asbestos where construction works are being conducted in the leased spaces by the tenant?*

The space has an asbestos roof and pipes insulated with asbestos and (DH) B introduced plant into that workplace that has asbestos brakes and gaskets.

If the matter is to do with the plant the responsibility is (DH) B’s, if it is to do with the roof or pipes (structural if you like), generally it is the responsibility of (DH) A (but in some rare cases contracts maybe written such that the (DH) B (tenant) has the responsibility for maintenance, replacement and upkeep.



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*What is an employer's **responsibility** if employees are working on a third-party site (e.g., schools), legally, does the employer need to ensure employees are consulted with around safety?*

Each PCBU/duty holder has a responsibility. You cannot contract out your WHS/OHS responsibilities

These responsibilities are clear and found under the general duties of the WHS/OHS Acts.

You still have a responsibility to ensure that your workers have the necessary information instruction and training, tools, equipment PPE/RPE for them to do the work and not put anyone at risk from their acts and omissions. The PCBU who you are working from has the same duties to provide a safe workplace.

*Does an owner of a building have an obligation to provide an **asbestos register** to the tenants, especially when it's obvious the building has asbestos?*

The owner of the building, structure or plant being used as a workplace has a duty to a) have an asbestos register per the regulations and dates as applicable. The register should relate to those assets that they have management or control over. As the landlord this register must be passed on to the tenant and anyone working or intending to work on the asset.

*Had experience where owners will not provide a register and we as a tenant would conduct an assessment as we need to provide a safe workplace. If there was an exposure on site and no register, how would the regulator view this?*

You are responsible for the assets under your management or control. That is to undertake an asbestos assessment on the thing you have introduced to the premises.

The General Duties under the OHS/WHS Act still require that the employer /PCBU needs the necessary information before they start work, and we should suggest they do not start work until they receive this information from the landlord, the tenant or the PCBU doing the work.

If after the tenant has asked the owner, and the owner refuses to provide or arrange for an audit/Register, the WHS/OHS regulator can be contacted to follow-up and if need be, issue the owner with a Notice.

*When builders are engaged in knockdowns and rebuilds but get owners to engage the demolishers separately, what are the **guidelines for owners?***

Homeowners are not covered by the OHS/WHS acts and regulations.

It is the responsibility of the demolisher in this case to organise the asbestos removal and clearance.

This asbestos clearance must be made available to the builder, before starting your construction works. The demolition contractors should provide this clearance to the homeowner and request that it be passed on to the next trade.

*Is an **Asbestos Removal Control Plan** considered in an **Asbestos Management Plan** when a house becomes a workplace?*

They are two separate documents with different meanings:

1. An asbestos removal control plan is a document that identifies the specific control measures a licence holder will use to ensure workers and other persons are not at risk when asbestos removal work is being conducted. It is similar to a job safety analysis (JSA) but is focused on the specific control measures necessary to minimise any risk from exposure to asbestos.
2. An Asbestos Management Plan (AMP) sets out how asbestos or ACM that is identified at the workplace will be managed, for example what, when and how it is going to be done for the person managing and



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controlling the workplace. An AMP may have asbestos removal procedure within the plan.

It is also a legal requirement where required under the WHS Regs (but not in Victoria).

*Does the ABF have a **dedicated team** who are checking for asbestos-containing products? Especially given the fact that asbestos is in a variety of products.*

Asbestos is one of a large number of prescribed prohibited imports that the Australian Border Force (ABF) must manage at the border within an environment of competing enforcement priorities.

*Could there potentially be roles created for asbestos/hazmat consultants devoted to **identifying potential asbestos-containing products** at the border, as well as an "on-site" NATA accredited laboratory for rapid TAT analysis?*

While there is dedicated staff to maintaining the border policy for the asbestos border control who work very closely with operational staff, the ABF must deploy its operational resources to meet real time threats and risks to the border.

Notwithstanding this, ABF officers working in the cargo space experience considerable workloads addressing asbestos risk goods. A direction to an importer to have the goods sampled and tested at the border provides the reasonable option to the importer of contractually engaging the appropriate professional services for these tasks.

The ABF does not generally dictate who is contracted, but that they be qualified and accredited to, and be seen to, undertake the task lawfully and in line with accepted scientific process to the current Australian Standard/s.

*How is it determined which containers are checked at the border? Is this **selected randomly** or based on product-type?*

The ABF uses a variety of parameters to identify risk goods.

**A few include:**

- Declared asbestos or goods containing asbestos
- Foreign suppliers and importers of known risk
- Goods descriptions
- Intelligence derived from prior border detections
- Information and intelligence received, and
- Known risk countries of origin in conjunction with the above parameters.

*In Victoria would the use of an Asbestos Management Plan (AMP) enable the PCBU to **reduce the labelling requirement**- to signage and entry points and labels at back of house?*

The PCBU/person with management or control would need to have a robust AMP that would mean that there was no risk of anyone accidentally disturbing the ACM.

The schools in Victoria had signage at all entry points of buildings that were known to contain asbestos and the mandatory signing in as well as a permit system and asbestos officers at the schools supported by training (no work happens without a permit).

It may be confusing to some trades as they walk into a building and see warning labels, knowing not to touch the ACM. Then they move to an area "Front of house" (where no labelling is evident) and have a lapse of judgement and accidentally disturb.

Use of an AMP would not 'lessen' the duty for labelling – however if a very well-run system of work (which could include an AMP) is in place, the term 'so far as is



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reasonably practicable’ could allow a ‘reduction’ in the labelling requirements. It would be a case-by-case decision.

**Are there *testing agencies* overseas that Border Force accepts as meeting the Australian Requirements?**

Detailed information addressing the sampling and testing process is available at the ABF website [asbestos information page](#).

A number of Australian laboratories are also in possession of ongoing Ministerial import permissions that allow for the importation of samples for testing in Australia, prior to export of the consignment from the country of origin.

Greencap has the largest network of [NATA-accredited Asbestos Testing Laboratories](#) in Australia, and holds permission to import samples of both possible amphibole and serpentine asbestos for the purpose of research or analysis. [Click here](#) for more information.

**The main risks to address when considering overseas testing is:**

- a) The laboratory be appropriately accredited to test for asbestos through an international MRA with NATA
- b) the sampling process be genuinely representative of the goods and their volume, and
- c) the laboratory be instructed to report any level of asbestos detected.
- d) Overseas thresholds and tolerances do not apply at the Australian border.

**Is there any discussion in the industry related to *government assistance* for homeowners to change out asbestos cement roofing?**

The Australian Asbestos Safety & Eradication Agency ([ASEA](#)) are discussing this matter but nothing concrete is in place as of yet.

**How has the industry responded (especially SafeWork NSW and WorkSafe Victoria) on acceptance of *baseline sample monitoring* and clearance in asbestos removal associated with the cancellation of NATA endorsed testing with swab and wet wipes?**

There is no provision for swab testing in regulations.

The [Code of Practice - How to Safely Remove Asbestos](#) states section 3.1: “The independent licensed assessor or competent person must not issue a clearance certificate unless they are satisfied that the asbestos removal area and the area immediately surrounding it are free from visible asbestos contamination. To do this, they must conduct a visual inspection for evidence of dust and debris. If air monitoring is also conducted, the results of that test must show that any identified respirable asbestos fibre levels are below 0.01 fibres/mL”.

The [Victorian Compliance Code - Removing asbestos in workplaces](#) requires a “visual inspection by an independent person to verify that there is no visible asbestos residue remaining as a result of the work in the area where the work was performed or in the area immediately surrounding the area where the work was performed”.



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*As an architect whose work includes renovating buildings, do we need to **test all cement sheet products on site regardless of age?***

We need to take the age of the building into consideration. Were they locally made goods with local ingredients, or imported goods and ingredients?

A competent person must be engaged to make the assessment, and the only way to know yes or no, is to get the material tested in a NATA accredited laboratory approved for asbestos.

A so-called 'shandy' of materials exists, which is non-asbestos material topped up with asbestos, because the full order was not available, or the manufacturer did not clean out the mixing vat before manufacturing the non-asbestos product.

Not all products require individual testing. For example, you do not have to test every eave, where there are 20 eave sheets that are in a series, if they all appear the same.

It comes down to taking "representative sampling". If 18 eaves all appear the same, one is satisfactory but if two appear different then they need to be sampled as well.

Further, if there is a large volume of the material it would always be worth taking more than 1 sample. You also need to justify that they were all the same in parameters such as appearance, shape and size.

*Should we be requiring builders to provide **Australian certification of all possible asbestos containing materials?***

*Have you had an experience with an employer working and/or disturbing asbestos and **not reporting it?***

Yes, this happens all too often.

*If yes, what are the ramifications for the employer?*

**If the perpetrator is caught, the ramifications are:**

- a) People unnecessarily exposed
- b) Contaminated site/home
- c) Legal costs
- d) Fines and prosecution
- e) Media attention/Reputation





## Questions from the Audience

*I'm a Building Service Manager coming from Facilities Management background, when we advised the owner to carry out a review of Asbestos, Man-Made Vitreous Fibre (MMVF), Polychlorinated Biphenyls (PCBs), Lead-Based Painted Surfaces, Lead-in Dust, and Ozone-Depleting Substances, the owner suggested that I carry out the review based on the **construction drawings**, but I know it is not the best way to do it.*

*As actual material used may have varied to construction drawings, what is the best ways to convey this message to the owner with some facts?*

The assessment should be undertaken by a competent person (CP). Competent in the type of structure the building is.

A drawing will point to what was specified, but the reality of what was installed could be something different. CP in the right direction only.

The regulation requires that an asbestos audit be undertaken by a competent person or persons.

Whilst one person may have a lot of these skills, it is unlikely that they will possess the entirety of skills with regards to the 3000 asbestos items and location where they may have been used.

**A potential response to the owner could be:**

*"The regulation requires that an asbestos audit be undertaken by a competent person. Whilst I have a lot of these skills, we do not possess all skills with regards to the 3000 asbestos items and locations where they may be used. It is best left to experts like Greencap that do this type of thing every day."*



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*If working in legacy pits and conduits, with no or minimal information on material, do we need to engage a consultant every time prior to work to **identify the material** to ensure presence of Asbestos?*

*Even though the work just involves (for example) cable hauling only?*

Not if you presume asbestos is present and have a procedure in place. The pit and its contents would need to be assessed for friability then consider if it is licensed work.

Must consider the 10 m2 rule and (in Victoria, the one hour per company restrictions) quote regulations.

Note, the rules around the 10m2 varies between Victoria and those states covered by the WHS legislation and different again in the ACT. Please check your states rules and regulations for clarification.

**WHS** - 10 m2 rule is per project

**Victoria OHS** – 10 m2 is per company per week – not quite, 10 m2 per job and in addition there is the 1 hour per week.

**ACT** – it does not apply.

Ensure to have a risk assessment be undertaken for the proposed works, this assessment should include air monitoring.

There should already be an Asbestos Register that covers all legacy pits and conduits.

For example, telecommunication pits that are not plastic are treated as asbestos containing, even if some are concrete, and don't have asbestos (otherwise they are sampled) – these are all marked up in this way.

**Greencap have experienced situations where:**

- Pits are replaced with plastic ones. However, the pit carcass remains concealed behind the plastic insert, and
- A combination of asbestos and concrete pit lining (same pit).

*What about **asbestos in a residential building**? I.e, having an asbestos register for a residence, is this the responsibility of the property owner?*

No, If it's a Workplace it is the responsibility of the PCBU.

In Victoria and NSW, where premises are used solely as domestic premises – there is no legal requirement for an Asbestos Register, even if the property is leased. It is however, a best practice though Real Estate agents.

This changes once it becomes a workplace. Tradespeople should anticipate that asbestos may be present and take the appropriate precautions and be aware that the OHS/WHS regulations apply now that the residence has become a workplace.



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*Clients have recently said they have **Naturally Occurring Asbestos (NOA)** on site but none in their buildings.*

*Do they still need to go through the same process in terms of assessment, register and remediation?*

A person with management or control of a workplace must manage the risks associated with naturally occurring asbestos (NOA) at the workplace. More information can be found in the WHS – [WHS Regulation Part 8.4](#).

Requirements to manage NOA from the Code of Practice (NSW).

Due to difficulties in fully describing the location and extent of a NOA deposit in an asbestos register, there is no requirement for NOA to be listed in an asbestos register.

However, any NOA identified or assumed at a workplace must be included on the asbestos management plan. This is to ensure steps are put in place, as with all other asbestos encountered in workplaces, to ensure that risks of exposure from NOA are assessed and managed.

*There are a number of items listed in our workplace **asbestos register** as assumed to contain asbestos.*

*How do we treat these- or how do we treat items listed as assumed to contain asbestos?*

In accordance with regulations, some items (materials, plant, equipment, dusts and debris) have been assumed to contain asbestos.

Where these items have been assumed to contain asbestos, the regulations require that they **MUST** be treated as if it contains asbestos until sampled otherwise.

**There are a number of reasons why these items have been listed this way:**

- a) previously reported in reports as positive and no sample identification report available
- b) there is uncertainty (based on reasonable grounds) as to whether asbestos is present
- c) there are inaccessible areas that are likely to contain asbestos and
- d) clearance document may not be clear to definitively determine that the asbestos has been removed.

**Shared resources:**

[www.asbestossafety.gov.au](http://www.asbestossafety.gov.au) - Asbestos Safety & Eradication Agency (ASEA)

For further information on Greencap services go to:  
[greencap.com.au/asbestos-hazardous-materials](http://greencap.com.au/asbestos-hazardous-materials)

# GREENCAP

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